

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

JOSEPH PETER SCHMITT, pro se,
Plaintiff,

vs

CIVIL DOCKET NO. 04-10451-RWZ

JEFFREY SMITH, et al.,
Defendants

PLAINTIFF'S MOTION FOR COURT ORDER

The plaintiff, Joseph Schmitt, hereby moves this court for an ORDER to the Worcester Superior Court Department to STAY any further action in the matter of Commonwealth v. Schmitt; Docket number: 02-01529, until this Honorable Court enters a final judgement in this civil rights action.

As grounds, the plaintiff states:

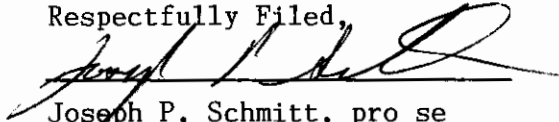
1. That if this Court rules that the plaintiff's pornographic stories are protected by the first amendment, and that the defendants had no legal authority to impose their personal moral agendas on plaintiff by confiscating his personal mail and then submitting it to prosecutors to utilize in confinement proceedings, the stories should not be admissable as evidence for the State's civil commitment action.
2. This Honorable Court has authority to CREATE A REMEDY as authorized in 28 U.S.C.A. sections 2201 and 1651.
3. The State should be unable to utilize fruits of a poisoned tree. See, Parkhurst v. Trapp, 77 F3d 707 (3rd Cir. 1996) "Unlawful search can never be justified by its fruits."

CONCLUSION

Plaintiff moves this Honorable Court to ORDER a stay of the State's civil commitment proceedings until this action is finalized.

Dated: January 30, 2006

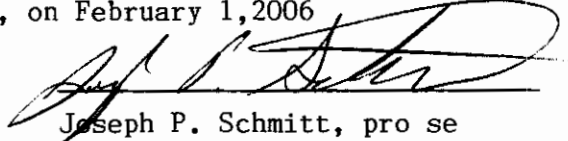
Respectfully Filed,



Joseph P. Schmitt, pro se
Nemasket Correctional Facility
30 Administration Road
Bridgewater, Massachusetts
02324-3230

Certificate of Service

I, Joseph P. Schmitt, hereby certify that a true copy of the above motion was hand delivered in person to the following parties, Worcester Superior Court Clerks Office, Worcester Superior Court Assistant District Attorney Peter Pratt, and Attorney Christopher P. LoConto, on February 1, 2006



Joseph P. Schmitt, pro se